

REMARKS/ARGUMENTS

Of pending claims 1-94, claims 6, 7, 9, 11-44, 46, 47, 49-94 were withdrawn pursuant to an election/restriction requirement and claims 1, 2, 5, 8, 10, 48, 95 and 97 were rejected. The claims have been amended as noted above. Reexamination and reconsideration of the claims are respectfully requested.

To begin, Applicants apologize for erroneous misnumbering of the newly added claims in the last Amendment. Withdrawn claims 65-87 were inadvertently left out of the claim list appearing in the Amendment leading to the erroneous misnumbering. The complete list is provided herein with proper numbering as indicated by the Examiner. Applicants apologize for any confusion.

In addition, the Examiner states that claim 96 appears to be drawn to the species of Fig. 8 which is a non-elected species. Therefore, Examiner has withdrawn this claim from consideration. Applicants disagree with this assessment. It is stated throughout the specification that many of the elements may be used in any combination and many elements serve multiple purposes. Therefore, not all combinations of all elements are separately illustrated but it is appreciated that by means of description this embodiment exists in relation to Figs. 3A-3B. However, in an effort to further prosecution, Applicants withdraw claim 96, however claim 96 has been amended due to the above mentioned misnumbering.

Claims 1, 2, 5, 8, 10 and 97 continue to be rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson et al. U.S. Patent No. 5,728,123.

The Examiner states that previous amendments to claim 1 did not require that the cutting surface extend circumferentially, only that the expansive element is circumferentially surrounding the catheter and the cutting surface extends along the radially expansive element. To remove any ambiguity, **claim 1** has been amended to specify that the dissection tool includes a cutting surface extending circumferentially and continuously about the radially expansive element. Since Lemelson et al. does not illustrate or describe such a circumferential cutting surface, Applicants believe claim 1 is allowable along with dependent **claims 2, 5, 8, 10, 97** and all other dependent claims.

Claims 48 and 95 were rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lemelson et al. U.S. Patent No. 5,728,123.

Regarding, **claim 48**, the Examiner has equated the "dissection means" of the claimed invention with the atherectomy blade structure of Lemelson. Without conceding the correctness of this assertion, claim 48 has been amended to clarify that the dissection means is disposed near the distal end of the catheter body for traversing the inner layer to the outer layer along a circumference of the body lumen or body cavity, without penetrating the outer layer to expose a portion of the outer layer, by expanding a blade which continuously circumscribes the catheter body. The Lemelson et al. structure is not capable of performing this function. The Lemelson et al. structure is not described to function in a manner of traversing the inner layer to the outer layer without penetrating the outer layer. And, even if the Lemelson et al. device was used in a manner contrary to its intended function (which is to remove plaque from the vessel walls), the Lemelson et al. device does not function by traversing the inner layer to the outer layer along a circumference of the body lumen or body cavity or by expanding a blade which continuously circumscribes the catheter body. The Lemelson et al. device functions so that radial expansion of a balloon positions cutting blades in an axial direction. Therefore, the structures cannot be considered obvious equivalents. **Claim 48** is thus considered allowable.

Claim 95 depends from claim 1 which has been differentiated from Lemelson et al. for the reasons stated above in relation to claim 1. Therefore, Applicants believe **claim 95** is allowable.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Appl. No. 09/820,084


PATENT

Amendment under 37 CFR 1.116 Expedited Procedure

Examining Group dated October 4, 2004

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Lynn M. Thompson
Reg. No. 47,991

TOWNSEND and TOWNSEND and CREW LLP

Two Embarcadero Center, Eighth Floor

San Francisco, California 94111-3834

Tel: 650-326-2400

Fax: 415-576-0300

Attachments

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